

NTSB Order No. EA-4676

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 24th day of June, 1998

Docket SE-15098

from a decision of a law judge be filed within 10 days after its service date. Absent a showing, not made or evident here, of good cause that would provide a basis for excusing the lateness of the respondent's notice, out of time by some 11 days, his appeal must be dismissed.⁴ See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

The respondent's appeal from the law judge's March 18, 1998 order is dismissed.⁵

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above order.

(..continued)

§ 821.47 Notice of Appeal.

A party may appeal from a law judge's order or from the initial decision by filing with the Board and serving upon the other parties (pursuant to §821.8) a notice of appeal within 10 days after an oral initial decision or an order has been served.

⁴Respondent's April 8 submission implies a belief that the 10-day period ran from the date he received ("signed for") the law judge's order. Any such mistaken belief, however, would not excuse the tardiness of the appeal (see, e.g., Administrator v. Near, 5 NTSB 994 (1986)(unfounded error in determining a filing deadline does not constitute legal justification for a procedural default)), and it would be at odds with explicit written advice attached to the law judge's decision and, it appears from notations in the official case file, with oral advice given to the respondent by the Office of Administrative Law Judges.

⁵Notwithstanding our dismissal of respondent's appeal for his failure to file a timely notice of appeal, we note that the single-page document attached to respondent's late notice, which was apparently intended to serve as his appeal brief, contains no argument challenging the validity of the law judge's ruling on the Administrator's motion to dismiss. Rather, it simply sets forth, in effect, various considerations respondent believes should be deemed extenuating, for purposes of imposing a sanction less severe than revocation.